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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Respondent,

No. CR S-98-0114 KJM DAD P

12 vs.

13 D'ANGELO DOMINICO DAVIS,

14 Movant.

ORDER

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16 Because respondent had suggested the possibility of a motion to dismiss on  
17 untimeliness grounds, on November 21, 2011, the court ordered respondent to file a motion to  
18 dismiss the pending § 2255 motion as untimely or to state in writing an intention to forego such  
19 motion. On December 9, 2011, respondent filed a documents styled as a memorandum of points  
20 and authorities indicating that it had concluded that the pending § 2255 motion was timely filed  
21 and would therefore not be moving to dismiss on that ground. Therefore, the court will provide  
22 movant with a deadline for renewing his motion for leave to file an amended § 2255 motion,  
23 supported by a memorandum of points and authorities and a proposed amended § 2255 motion.

24 Accordingly, IT IS ORDERED that:

25 1. Within thirty days from the service of this order, movant shall file and serve a  
26 motion for leave to amend the § 2255 motion, a memorandum of points and authorities and a

1 proposed amended § 2255 motion, or shall file a notice that no such motion for leave to amend  
2 will be filed;

3               2. Respondent's opposition to the motion for leave to amend shall be due thirty  
4 days after service of the motion to amend. Movant's reply shall be filed fourteen days thereafter.

5               3. If oral argument in connection with the motion is deemed necessary by the  
6 court, a hearing date will be set by separate order.

7 DATED: December 21, 2011.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE